

Amendment No. 4

Senate Amendment to Senate Bill No. 3	(BDR 53-10)
Proposed by: Senate Majority Leader	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAK/EGO



Date: 8/3/2020

S.B. No. 3—Revises provisions relating to unemployment compensation.
(BDR 53-10)



SENATE BILL NO. 3—COMMITTEE OF THE WHOLE

AUGUST 2, 2020

Referred to Committee of the Whole

SUMMARY—Revises provisions relating to unemployment compensation. (BDR 53-10)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to unemployment compensation; authorizing the electronic transmission of certain documents and communications relating to unemployment compensation; revising the procedures for the adoption of an emergency regulation by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation; revising provisions relating to eligibility for unemployment benefits in certain circumstances; authorizing the Administrator to suspend, modify, amend or waive certain requirements under certain circumstances; revising provisions governing the payment of unemployment benefits for an extended period and increasing the total extended benefits payable under certain circumstances; revising provisions relating to disqualification for unemployment compensation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires various notices or other documents or communications relating to unemployment insurance to be mailed to or served upon persons. (NRS 612.365, 612.500, 612.515, 612.551, 612.630) **Section 2** of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation or the Division to provide such documents or communications electronically to a person who has requested to receive such documents or communications electronically. **Section 2** additionally provides that an electronic communication does not satisfy or relieve the Administrator or Division from a requirement of federal or state law to provide a document or communication in the manner required by the applicable law.

Existing law authorizes an agency to adopt an emergency regulation if the agency determines, and the Governor agrees, that an emergency exists. (NRS 233B.0613) **Section 3** of this bill: (1) creates a similar process for the Administrator to adopt an emergency regulation; (2) provides for the review of an emergency regulation of the Administrator by the Legislative Commission; and (3) authorizes such an emergency regulation to be adopted more than once. **Section 14** of this bill makes a conforming change.

Existing law generally deems a person to be unemployed, and therefore eligible for unemployment benefits, in any week during which the person: (1) performs no services and

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18 receives no remuneration for services; or (2) performs less than full-time work, but is paid
19 remuneration that is less than the amount the person would otherwise receive in
20 unemployment benefits. (NRS 612.185) **Section 4** of this bill expands the eligibility for a
21 person who performs less than full-time work to be deemed to be unemployed to include
22 persons who are paid remuneration that is less than one and one-half times the amount the
23 person would otherwise receive in unemployment benefits.

24 **Section 5** of this bill authorizes the Administrator, by regulation **H and to the extent**
25 **allowed by federal law,** to suspend, modify, amend or waive any provision of the
26 Unemployment Compensation Law for the duration of a state of emergency or declaration of
27 disaster and for any additional period of time during which the emergency or disaster directly
28 affects the requirements of the Unemployment Compensation Law if the Administrator makes
29 certain determinations and the action is approved by the Governor. **Sections 12 and 13** of this
30 bill provide, for the purpose of compliance with federal law, similar authority for the
31 Administrator, by regulation **H and to the extent allowed by federal law,** to suspend,
32 modify, amend or waive specific provisions of the Unemployment Compensation Law
33 relating to rates of contribution for employers and charging of benefits to the account of an
34 employer.

35 The Families First Coronavirus Response Act, Pub. L. No. 116-127, provides for
36 additional money being made available to states for their unemployment compensation
37 programs. To qualify for the additional money, certain provisions must be included in state
38 law. **Sections 6 and 7** of this bill temporarily revise the definition of an "on" indicator for the
39 purposes of extended unemployment benefits and revise the total extended benefit amount a
40 person may receive in a benefit year during periods of high unemployment, which will allow
41 Nevada to qualify for additional money under the Families First Coronavirus Response Act.
42 **Section 7** also requires the Governor to determine whether any subsequent federal law
43 similarly provides for additional money to be made available to states for their unemployment
44 compensation programs and to issue a proclamation to that effect, and the revisions in
45 **sections 6 and 7** become effective for the period of time identified in the proclamation by the
46 Governor.

47 Existing law prohibits a person from receiving unemployment benefits for a week in
48 which the claimant received certain payments, including, without limitation, severance pay or
49 vacation pay. (NRS 612.420, 612.425, 612.430) **Sections 8-10** of this bill authorize the
50 Administrator, by regulation, to waive or modify the period in which a person is disqualified
51 from benefits for receiving certain payments for good cause or upon the making of certain
52 determinations. **Section 17.5 of this bill applies the amendatory provisions of sections 8**
53 **and 9 retroactively to any week of unemployment ending on or after May 28, 2020, and**
54 **authorizes a regulation adopted pursuant to sections 8 and 9 to apply retroactively to**
55 **such weeks of unemployment.**

56 **Section 11** of this bill requires certain filings relating to judicial review of a decision by
57 the Board of Review to be served or filed within a certain period of time.

58 Existing law requires a person to be disqualified from receiving unemployment benefits if
59 the Administrator determines the person has failed to apply for or accept suitable work
60 without good cause. (NRS 612.390) **Section 15** of this bill requires the Administrator to
61 establish, by regulation, justifications related to the outbreak of the disease identified by the
62 Centers for Disease Control and Prevention of the United States Department of Health and
63 Human Services as COVID-19 that constitute good cause for a person to refuse suitable work.
64 **Section 17.5 applies the provisions of section 15 retroactively to any week of**
65 **unemployment ending on or after May 28, 2020, and authorizes a regulation adopted**
66 **pursuant to section 15 to apply retroactively to such weeks of unemployment.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 612 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *Except as otherwise provided by federal or state law, the*
4 *Administrator or the Division may electronically provide a form, notice, claim,*
5 *bill or other document or communication to a person if the person has requested*
6 *to receive communications by electronic transmission, by electronic mail or other*
7 *electronic communication.*

8 2. *The electronic provision of a form, notice, claim, bill or other document*
9 *or communication pursuant to subsection 1 does not satisfy or relieve the*
10 *Administrator or Division of any obligation under federal or state law to provide*
11 *the form, notice, claim, bill or other document or communication in the manner*
12 *required by the applicable state or federal law.*

13 **Sec. 3. 1.** *If the Administrator determines that an emergency exists, the*
14 *Administrator shall submit to the Governor a written statement of the emergency*
15 *which sets forth the reasons for the determination. If the Governor endorses the*
16 *statement of the emergency by written endorsement at the end of the full text of*
17 *the statement of emergency on the original copy of a proposed regulation ~~and~~ and*
18 *the proposed regulation is consistent with federal law, the regulation may be*
19 *adopted. If the Administrator adopts the regulation, the Administrator shall*
20 *submit the adopted emergency regulation to the Legislative Counsel for*
21 *transmission to the Legislative Commission to determine whether the emergency*
22 *regulation is consistent with federal law, conforms to statutory authority and*
23 *carries out the intent of the Legislature in granting that authority. The statement*
24 *of the emergency endorsed by the Governor must be included as a part of the*
25 *regulation for all purposes.*

26 2. *If practicable, the Administrator shall, not later than 9 a.m. on the first*
27 *working day before the date on which the emergency regulation is submitted to*
28 *the Legislative Counsel pursuant to subsection 1, make the emergency regulation*
29 *available to the public by:*

30 (a) *Providing a copy of the emergency regulation to a member of the public*
31 *upon request; and*

32 (b) *Making a copy of the emergency regulation available on its website on*
33 *the Internet, if any.*

34 3. *If practicable, the Administrator shall, not later than 9 a.m. on the first*
35 *working day before the date of any hearing at which the agency considers the*
36 *emergency regulation, make the version of the proposed emergency regulation*
37 *that will be considered at the hearing available to the public by:*

38 (a) *Providing a copy of the proposed emergency regulation to a member of*
39 *the public upon request; and*

40 (b) *Making a copy of the proposed emergency regulation available on its*
41 *website on the Internet, if any.*

42 4. *The Legislative Commission has 15 days after the submission of an*
43 *emergency regulation to the Legislative Counsel by the Administrator pursuant to*
44 *subsection 1 to consider the emergency regulation. If the Legislative*
45 *Commission:*

46 (a) *Does not consider the emergency regulation during the 15-day period, the*
47 *emergency regulation is deemed approved and the Legislative Counsel shall*
48 *promptly file the emergency regulation with the Secretary of State and notify the*
49 *Administrator of the filing.*

1 (b) *Considers the emergency regulation during the 15-day period and:*

2 (1) *Approves the emergency regulation, the Legislative Counsel shall*
3 *promptly file the emergency regulation with the Secretary of State and notify the*
4 *Administrator of the filing.*

5 (2) *Objects to the emergency regulation after finding that the emergency*
6 *regulation is not consistent with federal law or does not conform to statutory*
7 *authority or carry out legislative intent, the Legislative Counsel shall attach to the*
8 *emergency regulation a written notice of the objection and shall promptly return*
9 *the emergency regulation to the Administrator. An emergency regulation*
10 *returned to the Administrator pursuant to this subparagraph or any substantially*
11 *identical regulation does not become effective until the regulation, including any*
12 *amendment to the regulation determined to be necessary by the Administrator to*
13 *address the objection of the Legislative Commission, is approved by the*
14 *Legislative Commission at a subsequent meeting.*

15 5. *An emergency regulation adopted pursuant to this section becomes*
16 *effective when the Legislative Counsel files with the Secretary of State the*
17 *original of the final draft or revision of the emergency regulation, together with*
18 *the informational statement prepared pursuant to NRS 233B.066. The Secretary*
19 *of State shall maintain the original of the final draft or revision of each such*
20 *emergency regulation in a permanent file to be used only for the preparation of*
21 *official copies.*

22 6. *A regulation adopted pursuant to this section may be effective for a*
23 *period of not longer than 120 days.*

24 7. *A regulation may be adopted by this emergency procedure more than*
25 *once by the Administrator.*

26 8. *If the Administrator adopts, after providing notice and the opportunity*
27 *for a hearing as required in chapter 233B of NRS, a permanent or temporary*
28 *regulation which becomes effective and is substantially identical to an effective*
29 *emergency regulation, the emergency regulation expires automatically on the*
30 *effective date of the temporary or permanent regulation.*

31 **Sec. 4.** NRS 612.185 is hereby amended to read as follows:

32 612.185 1. A person shall be deemed “unemployed” in any week during
33 which the person performs no services and with respect to which no remuneration
34 is payable to the person or in any week of less than full-time work if the
35 remuneration payable to the person with respect to such week is less than *one and*
36 *one-half times* the person’s weekly benefit amount if the person has no dependents
37 or less than *one and one-half times* the person’s augmented weekly benefit amount
38 if the person has dependents.

39 2. The Administrator shall adopt regulations applicable to unemployed
40 persons, making such distinctions in the procedures as to total unemployment,
41 partial unemployment of persons who were totally unemployed, partial
42 unemployment of persons who retain their regular employment and other forms of
43 part-time work, as the Administrator deems necessary.

44 3. No person shall be deemed to be unemployed in any week in which the
45 person:

46 (a) Is self-employed;

47 (b) Receives benefits for a temporary total disability or a temporary partial
48 disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

49 (c) Receives money for rehabilitative services pursuant to chapters 616A to
50 616D, inclusive, or 617 of NRS.

51 **Sec. 5.** NRS 612.220 is hereby amended to read as follows:

52 612.220 The Administrator:

53 1. Shall administer this chapter.

1 2. Is responsible for the administration, through the Administrator of the
2 Commission on Postsecondary Education, of the provisions of NRS 394.383 to
3 394.560, inclusive.

4 3. Has power and authority to adopt, amend or rescind such rules and
5 regulations ~~that~~ consistent with the provisions of federal law, to employ, in
6 accordance with the provisions of this chapter, such persons, make such
7 expenditures, require such reports, make such investigations, and take such other
8 action as the Administrator deems necessary or suitable to that end.

9 4. Shall determine his or her own organization and methods of procedure for
10 the Division in accordance with the provisions of this chapter.

11 ~~5. May~~ To the extent allowed by federal law, may, by regulation, suspend,
12 modify, amend or waive any requirement of this chapter for the duration of a
13 state of emergency or declaration of disaster proclaimed pursuant to NRS
14 414.070 and for any additional period of time during which the emergency or
15 disaster directly affects the requirement of this chapter if:

16 (a) *The Administrator determines the action is:*

17 (1) *In the best interest of the Division, this State or the general health,*
18 *safety and welfare of the citizens of this State; or*

19 (2) *Necessary to comply with instructions received from the Department*
20 *of Labor; and*

21 (b) *The action of the Administrator is approved by the Governor.*

22 **Sec. 6.** NRS 612.377 is hereby amended to read as follows:

23 612.377 As used in NRS 612.377 to 612.3786, inclusive, unless the context
24 clearly requires otherwise:

25 1. "Extended benefit period" means a period which begins with the third
26 week after a week for which there is a Nevada "on" indicator and ends with the
27 third week after the first week for which there is a Nevada "off" indicator or the
28 13th consecutive week after it began, except that no extended benefit period may
29 begin by reason of a Nevada "on" indicator before the 14th week following the end
30 of a prior extended benefit period which was in effect for Nevada.

31 2. There is a "Nevada 'on' indicator" for a week if the Administrator
32 determines, in accordance with the regulations of the Secretary of Labor, that ~~for~~ :

33 (a) *For the period consisting of that week and the immediately preceding 12*
34 *weeks, the rate of insured unemployment in Nevada (not seasonally adjusted) under*
35 *NRS 612.377 to 612.3786, inclusive:*

36 ~~(a)~~ (1) *Equalled or exceeded 120 percent of the average of those rates for the*
37 *corresponding 13-week period ending in each of the preceding 2 calendar years and*
38 *equalled or exceeded 5 percent; or*

39 ~~(b)~~ (2) *Equalled or exceeded 6 percent ~~;~~ or*

40 (b) *For weeks of unemployment beginning on or after March 18, 2020, and*
41 *ending on or before the week ending 4 weeks before the last week for which full*
42 *federal sharing is authorized by section 4105(a) of Public Law No. 116-127, or*
43 *which occur during a period of time specified by the Governor in a proclamation*
44 *issued pursuant to subsection 4 of NRS 612.378, the average rate of total*
45 *seasonally adjusted unemployment in Nevada, as determined by the Secretary of*
46 *Labor, for the period consisting of the most recent 3 months for which data for*
47 *all states are published before the close of such week:*

48 (1) *Equalled or exceeded 6.5 percent; and*

49 (2) *Equalled or exceeded 110 percent of the average rate for the*
50 *corresponding 3-month period ending in either of the 2 preceding calendar years.*

51 3. There is a "Nevada 'off' indicator" for a week if the Administrator
52 determines, in accordance with the regulations of the Secretary of Labor, that for

1 the period consisting of that week and the immediately preceding 12 weeks, the rate
2 of insured unemployment in Nevada (not seasonally adjusted):

- 3 (a) Was less than 120 percent of the average of those rates for the
4 corresponding 13-week period ending in each of the preceding 2 calendar years; or
5 (b) Was less than 5 percent.

6 4. "Rate of insured unemployment," for purposes of subsections 2 and 3,
7 means the percentage derived by dividing the average weekly number of persons
8 filing claims in this State for the weeks of unemployment for the most recent period
9 of 13 consecutive weeks, as determined by the Administrator on the basis of the
10 Administrator's reports to the Secretary of Labor using the average monthly
11 employment covered under this chapter as determined by the Administrator and
12 recorded in the records of the Division for the first four of the most recent six
13 completed calendar quarters ending before the end of the 13-week period.

14 5. "Regular benefits" means benefits payable to a person under this chapter or
15 under any other state law (including benefits payable to federal civilian employees
16 and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. §§ 8501 et seq.)
17 other than extended benefits.

18 6. "Extended benefits" means benefits (including benefits payable to federal
19 civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C.
20 §§ 8501 et seq.) payable to a person under the provisions of NRS 612.377 to
21 612.3786, inclusive, for the weeks of unemployment in the person's eligibility
22 period.

23 7. "Additional benefits" means benefits payable to exhaustees by reason of
24 conditions of high unemployment or by reason of other special factors under the
25 provisions of any state law. Any person who is entitled to both additional and
26 extended benefits for the same week must be given the choice of electing which
27 type of benefit to claim regardless of whether his or her rights to additional and
28 extended benefits arise under the law of the same state or different states.

29 8. "Eligibility period" of a person means the period consisting of the weeks in
30 the person's benefit year under this chapter which begin in an extended benefit
31 period and, if that benefit year ends within the extended benefit period, any weeks
32 thereafter which begin in that period.

33 9. "Exhaustee" means a person who, with respect to any week of
34 unemployment in the person's eligibility period:

35 (a) Has received, before that week, all of the regular, seasonal or nonseasonal
36 benefits that were available to him or her under this chapter or any other state law
37 (including augmented weekly benefits for dependents and benefits payable to
38 federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C.
39 §§ 8501 et seq.) in the person's current benefit year which includes that week,
40 except that, for the purposes of this paragraph, a person shall be deemed to have
41 received all of the regular benefits that were available to him or her, although as a
42 result of a pending appeal with respect to wages that were not considered in the
43 original monetary determination in that benefit year, the person may subsequently
44 be determined to be entitled to added regular benefits; or

45 (b) His or her benefit year having expired before that week, has no, or
46 insufficient, wages on the basis of which the person could establish a new benefit
47 year which would include that week,

48 and has no right to unemployment benefits or allowances, as the case may be,
49 under the Railroad Unemployment Insurance Act, 45 U.S.C. §§ 351 et seq., the
50 Trade Expansion Act of 1962, 19 U.S.C. §§ 1801 et seq., the Automotive Products
51 Trade Act of 1965, 19 U.S.C. §§ 2001 et seq. and such other federal laws as are
52 specified in regulations issued by the Secretary of Labor, and has not received and
53 is not seeking unemployment benefits under the unemployment compensation law

1 of Canada. If the person is seeking such benefits and the appropriate agency finally
2 determines that the person is not entitled to benefits under that law the person is
3 considered an exhaustee.

4 10. "State law" means the unemployment insurance law of any state,
5 approved by the Secretary of Labor under Section 3304 of the Internal Revenue
6 Code of 1954.

7 **Sec. 7.** NRS 612.378 is hereby amended to read as follows:

8 612.378 1. ~~The~~ *Except as otherwise provided in subsection 2, the* total
9 extended benefit amount payable to any eligible person for the person's applicable
10 benefit year is the lesser of the following amounts:

11 (a) Fifty percent of the basic benefits which were payable to him or her in the
12 benefit year. If the amount computed is not a multiple of \$1, it must be computed to
13 the next lower multiple of \$1.

14 (b) Thirteen times the person's average weekly benefit amount which was
15 payable to him or her under this chapter for a week of total unemployment in the
16 applicable benefit year. If the amount computed is not a multiple of \$1, it must be
17 computed to the next lower multiple of \$1.

18 (c) *Thirty-nine times the person's average weekly benefit amount which was*
19 *payable to him or her under this chapter for a week of total unemployment in the*
20 *applicable benefit year, reduced by the basic benefits which were payable to him*
21 *or her in the benefit year. If the amount computed is not a multiple of \$1, it must*
22 *be computed to the next lower multiple of \$1.*

23 2. *In weeks beginning in a high unemployment period on or after March*
24 *18, 2020, and ending on or before the week ending 3 weeks before the last week*
25 *for which full federal sharing is authorized by section 4105(a) of Public Law No.*
26 *116-127, or which occur during a period of time specified by the Governor in a*
27 *proclamation issued pursuant to subsection 4, the total extended benefit amount*
28 *payable to any eligible person for the person's applicable benefit year is the lesser*
29 *of the following amounts:*

30 (a) *Eighty percent of the basic benefits which were payable to him or her in*
31 *the benefit year. If the amount computed is not a multiple of \$1, it must be*
32 *computed to the next lower multiple of \$1.*

33 (b) *Twenty times the person's average weekly benefit amount which was*
34 *payable to him or her under this chapter for a week of total unemployment in the*
35 *applicable benefit year. If the amount computed is not a multiple of \$1, it must be*
36 *computed to the next lower multiple of \$1.*

37 (c) *Forty-six times the person's average weekly benefit amount which was*
38 *payable to him or her under this chapter for a week of total unemployment in the*
39 *applicable benefit year, reduced by the basic benefits which were payable to him*
40 *or her in the benefit year. If the amount computed is not a multiple of \$1, it must*
41 *be computed to the next lower multiple of \$1.*

42 3. If the benefit year of any person ends within an extended benefit period, the
43 remaining balance of extended benefits that the person would, but for this
44 subsection, be entitled to receive in that period, with respect to weeks of
45 unemployment beginning after the end of the benefit year, must be reduced by the
46 product of the number of weeks for which the person received any amounts as trade
47 readjustment allowances pursuant to 19 U.S.C. § 2291 within that benefit year,
48 multiplied by the weekly benefit amount of extended benefits, but the balance must
49 not be reduced below zero.

50 4. *If the Governor determines that a federal law authorizes full federal*
51 *sharing for one or more weeks to cover the costs of extended benefits incurred*
52 *pursuant to subsection 2, the Governor shall issue a proclamation stating that*

1 *determination and specifying the weeks during which the extended benefits are*
2 *available.*

3 *5. As used in this section, "high unemployment period" means any period*
4 *during which the average rate of total seasonally adjusted unemployment in*
5 *Nevada, as determined by the Secretary of Labor, for the period consisting of the*
6 *most recent 3 months for which data for all states are published before the close*
7 *of such week:*

8 *(a) Equaled or exceeded 8 percent; and*

9 *(b) Equaled or exceeded 110 percent of the average rate for the*
10 *corresponding 3-month period ending in either of the 2 preceding calendar years.*

11 **Sec. 8.** NRS 612.420 is hereby amended to read as follows:

12 612.420 ~~LA~~

13 *1. Except as otherwise provided in subsection 2, a person is disqualified for*
14 *benefits for any week with respect to which the person receives either wages in lieu*
15 *of notice or severance pay.*

16 *2. The Administrator may, by regulation, waive or modify the period of*
17 *disqualification set forth in subsection 1:*

18 *(a) For good cause; or*

19 *(b) If the Administrator determines such action is necessary to expedite*
20 *benefits and protect the health, safety and well-being of claimants.*

21 **Sec. 9.** NRS 612.425 is hereby amended to read as follows:

22 612.425 ~~LA~~

23 *1. Except as otherwise provided in subsection 2, a claimant shall be*
24 *disqualified for benefits for any week with respect to which the claimant is on paid*
25 *vacation.*

26 *2. The Administrator may, by regulation, waive or modify the period of*
27 *disqualification set forth in subsection 1:*

28 *(a) For good cause; or*

29 *(b) If the Administrator determines such action is necessary to expedite*
30 *benefits and protect the health, safety and well-being of claimants.*

31 **Sec. 10.** NRS 612.430 is hereby amended to read as follows:

32 612.430 ~~LA~~

33 *1. Except as otherwise provided in subsection 2, a claimant shall be*
34 *disqualified for benefits for any week following termination of work, which could*
35 *have been compensated by vacation pay had termination not occurred, if the*
36 *claimant actually receives such compensation at the time of separation or on regular*
37 *paydays immediately following termination.*

38 *2. The Administrator may, by regulation, waive or modify the period of*
39 *disqualification set forth in subsection 1:*

40 *(a) For good cause; or*

41 *(b) If the Administrator determines such action is necessary to expedite*
42 *benefits and protect the health, safety and well-being of claimants.*

43 **Sec. 11.** NRS 612.530 is hereby amended to read as follows:

44 612.530 1. Within 11 days after the decision of the Board of Review has
45 become final, any party aggrieved thereby or the Administrator may secure judicial
46 review thereof by commencing an action in the district court of the county where
47 the employment which is the basis of the claim was performed for the review of the
48 decision, in which action any other party to the proceedings before the Board of
49 Review must be made a defendant.

50 2. In such action, a petition which need not be verified, but which must state
51 the grounds upon which a review is sought, must, *within 45 days after the*
52 *commencement of the action*, be served upon the Administrator, unless the
53 Administrator is the appellant, or upon such person as the Administrator may

1 designate, and such service shall be deemed completed service on all parties, but
2 there must be left with the party so served as many copies of the petition as there
3 are defendants, and the Administrator shall forthwith mail one such copy to each
4 defendant.

5 3. *The Administrator shall file with the court an answer within 45 days*
6 *after being served with a petition pursuant to subsection 2 or, if the Administrator*
7 *is the appellant, the Administrator shall serve the petition upon each other party*
8 *within 45 days after commencement of the action.* With the Administrator's
9 answer or petition, the Administrator shall certify and file with the court originals
10 or true copies of all documents and papers and a transcript of all testimony taken in
11 the matter, together with the Board of Review's findings of fact and decision
12 therein. The Administrator may certify to the court questions of law involved in any
13 decision.

14 4. In any judicial proceedings under this section, the finding of the Board of
15 Review as to the facts, if supported by evidence and in the absence of fraud, is
16 conclusive, and the jurisdiction of the court is confined to questions of law.

17 5. Such actions, and the questions so certified, must be heard in a summary
18 manner and must be given precedence over all other civil cases except cases arising
19 under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

20 6. An appeal may be taken from the decision of the district court to the
21 appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme
22 Court of Nevada pursuant to Section 4 of Article 6 of the Nevada Constitution in
23 the same manner, but not inconsistent with the provisions of this chapter, as is
24 provided in civil cases.

25 7. It is not necessary, in any judicial proceeding under this section, to enter
26 exceptions to the rulings of the Board of Review, and no bond may be required for
27 entering the appeal.

28 8. Upon the final determination of the judicial proceeding, the Board of
29 Review shall enter an order in accordance with the determination.

30 9. A petition for judicial review does not act as a supersedeas or stay unless
31 the Board of Review so orders.

32 **Sec. 12.** NRS 612.550 is hereby amended to read as follows:

33 612.550 1. As used in this section:

34 (a) "Average actual duration" means the number of weeks obtained by dividing
35 the number of weeks of benefits paid for weeks of total unemployment in a
36 consecutive 12-month period by the number of first payments made in the same 12-
37 month period.

38 (b) "Average annual payroll" for each calendar year means the annual average
39 of total wages paid by an employer subject to contributions for the 3 consecutive
40 calendar years immediately preceding the computation date. The average annual
41 payroll for employers first qualifying as eligible employers must be computed on
42 the total amount of wages paid, subject to contributions, for not less than 10
43 consecutive quarters and not more than 12 consecutive quarters ending on
44 December 31, immediately preceding the computation date.

45 (c) "Beneficiary" means a person who has received a first payment.

46 (d) "Computation date" for each calendar year means June 30 of the preceding
47 calendar year.

48 (e) "Covered worker" means a person who has worked in employment subject
49 to this chapter.

50 (f) "First payment" means the first weekly unemployment insurance benefit
51 paid to a person in the person's benefit year.

1 (g) "Reserve balance" means the excess, if any, of total contributions paid by
2 each employer over total benefit charges to that employer's experience rating
3 record.

4 (h) "Reserve ratio" means the percentage ratio that the reserve balance bears to
5 the average annual payroll.

6 (i) "Total contributions paid" means the total amount of contributions, due on
7 wages paid on or before the computation date, paid by an employer not later than
8 the last day of the second month immediately following the computation date.

9 (j) "Unemployment risk ratio" means the ratio obtained by dividing the number
10 of first payments issued in any consecutive 12-month period by the average
11 monthly number of covered workers in employment as shown on the records of the
12 Division for the same 12-month period.

13 2. The Administrator shall, as of the computation date for each calendar year,
14 classify employers in accordance with their actual payrolls, contributions and
15 benefit experience, and shall determine for each employer the rate of contribution
16 which applies to that employer for each calendar year in order to reflect his or her
17 experience and classification. The contribution rate of an employer may not be
18 reduced below 2.95 percent, unless there have been 12 consecutive calendar
19 quarters immediately preceding the computation date throughout which the
20 employer has been subject to this chapter and his or her account as an employer
21 could have been charged with benefit payments, except that an employer who has
22 not been subject to the law for a sufficient period to meet this requirement may
23 qualify for a rate less than 2.95 percent if his or her account has been chargeable
24 throughout a lesser period not less than the 10-consecutive-calendar-quarter period
25 ending on the computation date.

26 3. Any employer who qualifies under paragraph (b) of subsection 9 and
27 receives the experience record of a predecessor employer must be assigned the
28 contribution rate of the predecessor.

29 4. Benefits paid to a person up to and including the computation date must be
30 charged against the records, for experience rating, of the person's base-period
31 employers in the same percentage relationship that wages reported by individual
32 employers represent to total wages reported by all base period employers, except
33 that:

34 (a) If one of the base period employers has paid 75 percent or more of the
35 wages paid to the person during the person's base period, and except as otherwise
36 provided in NRS 612.551, the benefits, less a proportion equal to the proportion of
37 wages paid during the base period by employers who make reimbursement in lieu
38 of contributions, must be charged to the records for experience rating of that
39 employer. The proportion of benefits paid which is equal to the part of the wages of
40 the claimant for the base period paid by an employer who makes reimbursement
41 must be charged to the record of that employer.

42 (b) No benefits paid to a multistate claimant based upon entitlement to benefits
43 in more than one state may be charged to the experience rating record of any
44 employer when no benefits would have been payable except pursuant to NRS
45 612.295.

46 (c) Except for employers who have been given the right to make
47 reimbursement in lieu of contributions, extended benefits paid to a person must not
48 be charged against the accounts of the person's base-period employers.

49 5. The Administrator shall, as of the computation date for each calendar year,
50 compute the reserve ratio for each eligible employer and shall classify those
51 employers on the basis of their individual reserve ratios. The contribution rate
52 assigned to each eligible employer for the calendar year must be determined by the
53 range within which the employer's reserve ratio falls. The Administrator shall, by

1 regulation, prescribe the contribution rate schedule to apply for each calendar year
 2 by designating the ranges of reserve ratios to which must be assigned the various
 3 contribution rates provided in subsection 6. The lowest contribution rate must be
 4 assigned to the designated range of highest reserve ratios and each succeeding
 5 higher contribution rate must be assigned to each succeeding designated range of
 6 lower reserve ratios, except that, within the limits possible, the differences between
 7 reserve ratio ranges must be uniform.

8 6. Each employer eligible for a contribution rate based upon experience and
 9 classified in accordance with this section must be assigned a contribution rate by
 10 the Administrator for each calendar year according to the following classes:

11		
12	Class 1.....	0.25 percent
13	Class 2.....	0.55 percent
14	Class 3.....	0.85 percent
15	Class 4.....	1.15 percent
16	Class 5.....	1.45 percent
17	Class 6.....	1.75 percent
18	Class 7.....	2.05 percent
19	Class 8.....	2.35 percent
20	Class 9.....	2.65 percent
21	Class 10.....	2.95 percent
22	Class 11.....	3.25 percent
23	Class 12.....	3.55 percent
24	Class 13.....	3.85 percent
25	Class 14.....	4.15 percent
26	Class 15.....	4.45 percent
27	Class 16.....	4.75 percent
28	Class 17.....	5.05 percent
29	Class 18.....	5.40 percent
30		

31 7. On September 30 of each year, the Administrator shall determine:

32 (a) The highest of the unemployment risk ratios experienced in the 109
 33 consecutive 12-month periods in the 10 years ending on March 31;

34 (b) The potential annual number of beneficiaries found by multiplying the
 35 highest unemployment risk ratio by the average monthly number of covered
 36 workers in employment as shown on the records of the Division for the 12 months
 37 ending on March 31;

38 (c) The potential annual number of weeks of benefits payable found by
 39 multiplying the potential number of beneficiaries by the highest average actual
 40 duration experienced in the 109 consecutive 12-month periods in the 10 years
 41 ending on September 30; and

42 (d) The potential maximum annual benefits payable found by multiplying the
 43 potential annual number of weeks of benefits payable by the average payment made
 44 to beneficiaries for weeks of total unemployment in the 12 months ending on
 45 September 30.

46 8. The Administrator shall issue an individual statement, itemizing benefits
 47 charged during the 12-month period ending on the computation date, total benefit
 48 charges, total contributions paid, reserve balance and the rate of contributions to
 49 apply for that calendar year, for each employer whose account is in active status on
 50 the records of the Division on January 1 of each year and whose account is
 51 chargeable with benefit payments on the computation date of that year.

52 9. If an employer transfers its trade or business, or a portion thereof, to
 53 another employer:

1 (a) And there is substantially common ownership, management or control of
2 the employers, the experience record attributable to the transferred trade or business
3 must be transferred to the employer to whom the trade or business is transferred.
4 The rates of both employers must be recalculated, and the recalculated rates
5 become effective on the date of the transfer of the trade or business. If the
6 Administrator determines, following the transfer of the experience record pursuant
7 to this paragraph, that the sole or primary purpose of the transfer of the trade or
8 business was to obtain a reduced liability for contributions, the Administrator shall
9 combine the experience rating records of the employers involved into a single
10 account and assign a single rate to the account.

11 (b) And there is no substantially common ownership, management or control
12 of the employers, the experience record of an employer may be transferred to a
13 successor employer as of the effective date of the change of ownership if:

14 (1) The successor employer acquires the entire or a severable and distinct
15 portion of the business, or substantially all of the assets, of the employer;

16 (2) The successor employer notifies the Division of the acquisition in
17 writing within 90 days after the date of the acquisition;

18 (3) The employer and successor employer submit a joint application to the
19 Administrator requesting the transfer; and

20 (4) The joint application is approved by the Administrator.

21 ➤ The joint application must be submitted within 1 year after the date of issuance
22 by the Division of official notice of eligibility to transfer.

23 (c) Except as otherwise provided in paragraph (a), a transfer of the experience
24 record must not be completed if the Administrator determines that the acquisition
25 was effected solely or primarily to obtain a more favorable contribution rate.

26 (d) Any liability to the Division for unpaid contributions, interest or forfeit
27 attributable to the transferred trade or business must be transferred to the successor
28 employer. The percentage of liability transferred must be the same as the
29 percentage of the experience record transferred.

30 10. Whenever an employer has paid no wages in employment for 8
31 consecutive calendar quarters following the last calendar quarter in which the
32 employer paid wages for employment, the Administrator shall terminate the
33 employer's experience rating account, and the account must not thereafter be used
34 in any rate computation.

35 11. The Administrator may adopt reasonable accounting methods to account
36 for those employers which are in a category for providing reimbursement in lieu of
37 contributions.

38 ***12. ~~[The]~~ To the extent allowed by federal law, the Administrator may, by***
39 ***regulation, suspend, modify, amend or waive any requirement of this section for***
40 ***the duration of a state of emergency or declaration of disaster proclaimed***
41 ***pursuant to NRS 414.070 and for any additional period of time during which the***
42 ***emergency or disaster directly affects the requirement of this section if:***

43 (a) *The Administrator determines the action is:*

44 (1) *In the best interest of the Division, this State or the general health,*
45 *safety and welfare of the citizens of this State; or*

46 (2) *Necessary to comply with instructions received from the Department*
47 *of Labor; and*

48 (b) *The action of the Administrator is approved by the Governor.*

49 **Sec. 13.** NRS 612.551 is hereby amended to read as follows:

50 612.551 1. Except as otherwise provided in subsections 2, 3 and 7, if the
51 Division determines that a claimant has earned 75 percent or more of his or her
52 wages during his or her base period from one employer, it shall notify the employer
53 ***by mail*** of its determination and advise him or her that he or she has a right to

1 protest the charging of benefits to his or her account pursuant to subsection 4 of
2 NRS 612.550.

3 2. Benefits paid pursuant to an elected base period in accordance with NRS
4 612.344 must not be charged against the record for experience rating of the
5 employer.

6 3. Except as otherwise provided in subsection 7, if a claimant leaves his or her
7 last or next to last employer to take other employment and leaves or is discharged
8 by the latter employer, benefits paid to the claimant must not be charged against the
9 record for experience rating of the former employer.

10 4. If the employer provides evidence within 10 working days after the notice
11 required by subsection 1 was mailed which satisfies the Administrator that the
12 claimant:

13 (a) Left his or her employment voluntarily without good cause or was
14 discharged for misconduct connected with the employment; or

15 (b) Was the spouse of an active member of the Armed Forces of the United
16 States and left his or her employment because the spouse was transferred to a
17 different location,

18 ↪ the Administrator shall order that the benefits not be charged against the record
19 for experience rating of the employer.

20 5. The employer may appeal from the ruling of the Administrator relating to
21 the cause of the termination of the employment of the claimant in the same manner
22 as appeals may be taken from determinations relating to claims for benefits.

23 6. A determination made pursuant to this section does not constitute a basis
24 for disqualifying a claimant to receive benefits.

25 7. If an employer who is given notice of a claim for benefits pursuant to
26 subsection 1 fails to submit timely to the Division all known relevant facts which
27 may affect the claimant's rights to benefits as required by NRS 612.475, the
28 employer's record for experience rating is not entitled to be relieved of the amount
29 of any benefits paid to the claimant as a result of such failure that were charged
30 against the employer's record pursuant to NRS 612.550 or 612.553.

31 8. ~~The~~ To the extent allowed by federal law, the Administrator may, by
32 regulation, suspend, modify, amend or waive any requirement of this section for
33 the duration of a state of emergency or declaration of disaster proclaimed
34 pursuant to NRS 414.070 and for any additional period of time during which the
35 emergency or disaster directly affects the requirement of this section if:

36 (a) *The Administrator determines the action is:*

37 (1) *In the best interest of the Division, this State or the general health,*
38 *safety and welfare of the citizens of this State; or*

39 (2) *Necessary to comply with instructions received from the Department*
40 *of Labor; and*

41 (b) *The action of the Administrator is approved by the Governor.*

42 **Sec. 14.** NRS 233B.039 is hereby amended to read as follows:

43 233B.039 1. The following agencies are entirely exempted from the
44 requirements of this chapter:

45 (a) The Governor.

46 (b) Except as otherwise provided in NRS 209.221, the Department of
47 Corrections.

48 (c) The Nevada System of Higher Education.

49 (d) The Office of the Military.

50 (e) The Nevada Gaming Control Board.

51 (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada
52 Gaming Commission.

1 (g) Except as otherwise provided in NRS 425.620, the Division of Welfare and
2 Supportive Services of the Department of Health and Human Services.

3 (h) Except as otherwise provided in NRS 422.390, the Division of Health Care
4 Financing and Policy of the Department of Health and Human Services.

5 (i) Except as otherwise provided in NRS 533.365, the Office of the State
6 Engineer.

7 (j) The Division of Industrial Relations of the Department of Business and
8 Industry acting to enforce the provisions of NRS 618.375.

9 (k) The Administrator of the Division of Industrial Relations of the Department
10 of Business and Industry in establishing and adjusting the schedule of fees and
11 charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

12 (l) The Board to Review Claims in adopting resolutions to carry out its duties
13 pursuant to NRS 445C.310.

14 (m) The Silver State Health Insurance Exchange.

15 (n) The Cannabis Compliance Board.

16 2. Except as otherwise provided in subsection 5 and NRS 391.323, the
17 Department of Education, the Board of the Public Employees' Benefits Program
18 and the Commission on Professional Standards in Education are subject to the
19 provisions of this chapter for the purpose of adopting regulations but not with
20 respect to any contested case.

21 3. The special provisions of:

22 (a) Chapter 612 of NRS for the *adoption of an emergency regulation or the*
23 *distribution of regulations by and the judicial review of decisions of the*
24 *Employment Security Division of the Department of Employment, Training and*
25 *Rehabilitation;*

26 (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested
27 claims;

28 (c) Chapter 91 of NRS for the judicial review of decisions of the Administrator
29 of the Securities Division of the Office of the Secretary of State; and

30 (d) NRS 90.800 for the use of summary orders in contested cases,

31 ➤ prevail over the general provisions of this chapter.

32 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do
33 not apply to the Department of Health and Human Services in the adjudication of
34 contested cases involving the issuance of letters of approval for health facilities and
35 agencies.

36 5. The provisions of this chapter do not apply to:

37 (a) Any order for immediate action, including, but not limited to, quarantine
38 and the treatment or cleansing of infected or infested animals, objects or premises,
39 made under the authority of the State Board of Agriculture, the State Board of
40 Health, or any other agency of this State in the discharge of a responsibility for the
41 preservation of human or animal health or for insect or pest control;

42 (b) An extraordinary regulation of the State Board of Pharmacy adopted
43 pursuant to NRS 453.2184;

44 (c) A regulation adopted by the State Board of Education pursuant to NRS
45 388.255 or 394.1694;

46 (d) The judicial review of decisions of the Public Utilities Commission of
47 Nevada;

48 (e) The adoption, amendment or repeal of policies by the Rehabilitation
49 Division of the Department of Employment, Training and Rehabilitation pursuant
50 to NRS 426.561 or 615.178;

51 (f) The adoption or amendment of a rule or regulation to be included in the
52 State Plan for Services for Victims of Crime by the Department of Health and
53 Human Services pursuant to NRS 217.130; or

1 (g) The adoption, amendment or repeal of rules governing the conduct of
2 contests and exhibitions of unarmed combat by the Nevada Athletic Commission
3 pursuant to NRS 467.075.

4 6. The State Board of Parole Commissioners is subject to the provisions of
5 this chapter for the purpose of adopting regulations but not with respect to any
6 contested case.

7 **Sec. 15.** Notwithstanding any provision of NRS 612.390 to the contrary, for
8 the period of time that any emergency directive issued by the Governor pursuant to
9 chapter 414 of NRS relating to the outbreak of the disease identified by the Centers
10 for Disease Control and Prevention of the United States Department of Health and
11 Human Services as COVID-19 remains in effect, the Administrator of the
12 Employment Security Division of the Department of Employment, Training and
13 Rehabilitation shall, by regulation, establish justifications related to COVID-19 that
14 may constitute good cause for a person to refuse suitable work. Such justifications
15 may include, without limitation, that:

16 1. The employer cannot offer suitable means by which the person may work
17 remotely and a medical professional has recommended that the person not return to
18 work because the person falls into one of the categories deemed high risk for
19 contracting COVID-19 by the Centers for Disease Control and Prevention.

20 2. The person is sick or in isolation as a direct result of COVID-19.

21 3. There is an unreasonable risk of exposure to COVID-19 at the place of
22 employment of the person and the person falls into one of the categories deemed
23 high risk for contracting COVID-19 by the Centers for Disease Control and
24 Prevention.

25 4. The person is staying home to care for a family member who is suffering
26 from COVID-19 or subject to a prescribed period of quarantine by a medical
27 professional.

28 5. The person is caring for a child who is unable to attend school or a child
29 care facility because of COVID-19.

30 6. The person is 65 years of age or older.

31 7. The person is under any other circumstance that the Administrator
32 determines, when considering the totality of the person's circumstances, constitutes
33 good cause.

34 **Sec. 16.** Notwithstanding the provisions of NRS 218D.430 and 218D.435, a
35 committee may vote on this act before the expiration of the period prescribed for
36 the return of a fiscal note in NRS 218D.475. This section applies retroactively from
37 and after August 2, 2020.

38 **Sec. 17.** As soon as practicable, upon determining that sufficient resources
39 are available to the Employment Security Division of the Department of
40 Employment, Training and Rehabilitation to carry out the amendatory provisions of
41 section 4 of this act, the Administrator of the Employment Security Division of the
42 Department of Employment, Training and Rehabilitation shall notify the Governor
43 and the Director of the Legislative Counsel Bureau of that fact, and shall publish on
44 the Internet website of the Division notice to the public of that fact.

45 **Sec. 17.5. To the extent allowed by federal law:**

46 **1. The amendatory provisions of sections 8, 9 and 15 of this act apply**
47 **retroactively to any week of unemployment ending on or after May 28, 2020.**

48 **2. Any regulation adopted by the Administrator of the Employment**
49 **Security Division of the Department of Employment, Training and**
50 **Rehabilitation pursuant to section 8, 9 or 15 of this act may be applied**
51 **retroactively to any week of unemployment ending on or after May 28, 2020.**

52 **Sec. 18.** 1. This section and sections 1, 2, 3 and 5 to ~~17~~ 17.5, inclusive, of
53 this act become effective upon passage and approval.

- 1 2. Section 4 of this act becomes effective:
2 (a) Sixty days after passage and approval of this act; or
3 (b) On the date on which the Administrator of the Employment Security
4 Division of the Department of Employment, Training and Rehabilitation, pursuant
5 to section 17 of this act, notifies the Governor and the Director of the Legislative
6 Counsel Bureau that sufficient resources are available to enable the Division to
7 carry out the amendatory provisions of section 4 of this act,
8 ↳ whichever occurs first.